THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

AND

THE HON'BLE SRI JUSTICE D. APPA RAO

W.P.NO.10211 of 2006

Dated:23-05-2005

Between:

M/s. Tata Consultancy Services Limited, Madhapur, Hyderabad, rep. By its Assistant General Manager, Mr. K. Satyanarayana.

..Petitioner

and

The Commercial Tax Officer,Madhapur circle, Gaganvihar, Nampally, Hyderabad and others.

..Respondents.

ORDER:

(per L. Narasimha Reddy, J)

The petitioner is assessed to commercial tax by the first respondent in his order dated 10-03-2006. Aggrieved thereby, it preferred an appeal before the second respondent. It also filed an application for stay. On rejection of the same, the petitioner approached the third respondent by way of revision. The

revision was also rejected by the third respondent through an order dated 10-05-2006. Hence, this writ petition.

Learned counsel for the petitioner submits that respondents 1 to 3 did not understand the scope of the customary unbranded software staff and it levied tax on such service contrary to the settled law.

Learned Special Government Pleader for Taxes, on the other hand, submits that the contention advanced by the learned counsel for the petitioner has been taken into account by the assessing authorities and no explanation can be taken to the orders of challenge.

The petitioner preferred appeal against the order passed by the first respondent as required under the Andhra Pradesh Value Added Tax Act, 2005. It deposited 12.5% of the amount in dispute while filing the appeal. The second respondent rejected the application for stay and the same was confirmed by the third respondent.

For all practical purposes, the appeal is treated as continuation to the original proceedings and the Andhra Pradesh State Legislature has already taken care of the interest of the State by requiring the deposit of 12.5% as conditional precedent while filing the appeal and if the petitioner is required to pay the balance, nothing remains to be decided in the appeal.

Having regard to the facts and circumstances of the case, there shall be stay of the orders passed by the first respondent pending disposal of the appeal before the second respondent on condition the petitioner deposits 1/3rd of the disputed amount within a period of four weeks from today. The amount representing to 12.5%, which was deposited as a conditional precedent for filing appeal, shall be taken into account, and be treated as part of 1/3rd amount.

The Writ Petition is disposed of accordingly. No costs.

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L. NARASIMHA REDDY, J

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D. APPA RAO, J

23rd May, 2006.

sj/chv